



Artists' mobility and visas: a step forward

Final report of
On the Move's workshop on artists'
mobility and Schengen visas

December 2012

By

on the move

on-the-move.org

This report was written and edited by Elena Di Federico and Marie Le Sourd, On the Move.

On the Move (<http://on-the-move.org>) is a cultural mobility information network with more than 30 members in over 20 countries across Europe and beyond. Our mission is to encourage and facilitate cross-border mobility and cooperation, contributing to building up a vibrant and shared European cultural space that is strongly connected worldwide.

We thank the members of On the Move (OTM) and the external partners who actively contributed to the workshop and the editing of this report.

Special thanks go to Ms. Anne-Marie Soerensen and Mr. Daniel Csorgo, European Commission – DG Home Affairs, and to Ms. Catherine Magnant and Ms. Alexandra Kalogirou, European Commission – DG EAC for their active participation to the workshop *Artists' mobility and visas: a step forward* on November, 15th-16th 2012. Ms. Soerensen and Mr. Csorgo also contributed to the factual information included in this report.

Thanks to Ms. Tintin Wulia and Osage Gallery for the courtesy of the picture "The Most International Artist in the Universe", 2011. Multiple-channel video installation. Video still.

For any clarification concerning the report or On the Move's activity: mobility@on-the-move.org

On the Move is funded by



On the Move is funded with support from the European Commission. This document reflects the views only of the authors and is therefore their sole responsibility. The European Commission cannot be held responsible for any use which may be made of the information contained therein.

Index

Introduction	3
About this report	4
Glossary of key terms	5
Chapter 1. Artists' mobility and visas: what's the matter?	9
1.1. Problems with external agencies dealing with visa applications	10
1.2. Difficulties in the communication with the personnel/authority dealing with the visa applications or running the interviews	14
1.3. Transparency and accuracy of the information	16
1.4. Timeline of visa procedures	22
1.5. Direct and indirect cost of the visa applications	24
Chapter 2. Conclusions and recommendations	27
2.1. Conclusions from OTM survey and workshop	27
2.2. Recommendations	28
2.3. Food for thought	31
2.4. The next steps	32
Annexes	33
Annex 1 – "Artists' mobility and visas: share your story!" – the questionnaire	33
Annex 2 – The survey "Artists' mobility and visas: share your story!" – Summary of results	35
Annex 3 – The workshop "Artists' mobility and visas: a step forward"	41

Introduction

Creativity has no borders, but States do – and therefore, visas remain a hot topic for artists and cultural professionals working internationally. As a part of its **advocacy activities** for better conditions for the international mobility of artists and cultural professionals, **On the Move (OTM)** tackles visa issues: on this crucial theme we have developed a part of our *Charter for a sustainable and responsible cultural mobility*¹ and we organise **capacity building activities** for our members², in particular a training workshop in November, 15th-16th in Brussels devoted to Schengen visas. The results of this workshop form the core of this report.

Although Schengen is not the only problematic area in the world, the workshop focused on it for different reasons. Firstly, most of OTM members are based in, and have relations with, the EU or neighbouring countries; in addition, the discussion on artists' mobility and visas is on the agenda of the European Commission - DG EAC as a part of the Work Plan for Culture 2011-2014, and the DG Home Affairs is going to revise the EU Visa Code (in force since 2010) in 2013. The workshop gathered 9 OTM members and 19 selected external experts to discuss the situation of **non-EU artists having to travel to the Schengen area and needing a visa**. While acknowledging the improvements introduced with the EU visa code, the real-life problems pointed out by the – relatively small, but still significant – sample were discussed, and possible solutions in the short, medium and long term were commented. The meeting took place in an informal setting allowing exchange and debate between cultural organisations from EU and non-EU countries, representatives of the European Commission (DG EAC and DG Home) and of the Ministry of Culture and Communication, France.

As the workshop *Artists' mobility and Schengen visas: a step forward* was a constructive exchange among the participants about the problems faced by non-EU artists applying for a Schengen visa – and possible solutions –, so this report is a concise document presenting problems, explanations and concrete actions to undertake in order to help improve the conditions for mobile artists traveling across the Schengen borders.

The report is meant in particular as a reference for cultural organisations and institutions based in the EU and inviting non-EU nationals for short periods, **and for EU Member States and their representatives** (at Embassies, Consulates), who are responsible for the way the visa procedures are handled and for the final decision taken on applications. **Artists and cultural professionals** can find in this report selected and concise information related to the Schengen visa process.

Far from being a solution in itself, this report is a milestone in OTM's concrete engagement on visa issues: On the Move aims to create **a platform for dialogue between the cultural sector and the policy- and decision-making level** (nationally, EU-wide and internationally), while taking into account the experiences of the cultural field and of other advocacy groups. Our work goes on: in the upcoming months, and in particular with the launch of our *Charter for a sustainable and responsible cultural mobility*, we will continue advocating for better conditions for artists and cultural professionals working across borders. As we like saying, **mobility happens anyway: let's make it happen better!**

¹ Online from January 2013 – <http://on-the-move.org>

² For the updated list of OTM members: <http://on-the-move.org/members>

About this report

This report is the result of a three-step process:

- In September 2012 OTM launched the **online survey** *Artists' mobility and visas: share your story!* collecting real stories of problems experienced by non-EU national artists willing to enter the Schengen area; the survey was open until mid-October 2012 and allowed to collect 88 responses³.



- In early November 2012 OTM produced an **interim report** presenting the results of the survey, which was distributed only to the participants to the workshop *Artists' mobility and Schengen visas: a step forward* as a background document.

- On November 15th and 16th the **workshop** *Artists' mobility and Schengen visas: a step forward* took place in Brussels and allowed for an open discussion about current problems and possible solutions.

Images of the workshop in Brussels, 15-16 November 2012. Above: the picture used for the questionnaire "Artists' mobility and visas: share your story!"



This report is structured in three parts:

- **Chapter I** combines the results of the online survey *Artists' mobility and visas: share your story!* and the main outcomes of the discussion held during the Brussels workshop. It provides a general framework for the topic of "artists' mobility and visas" and points out the main problems faced by non-EU artists needing a Schengen visa, confronting what happens in real life and what should happen according to the EU visa code in force since 2010.

- **Chapter II** presents **conclusions and recommendations** addressed to EU Member States, European Commission – DG Home and cultural organisations based in the EU and working with artists and cultural professionals based in third countries. It also includes a first list of relevant events related to visa issues that OTM and its members plan to attend in the upcoming months.

- The **Annexes** include the questionnaire used for the online survey, some general information about the results of the survey, the programme of OTM workshop and the list of participants.

³ See Annex 1 for more details about the survey

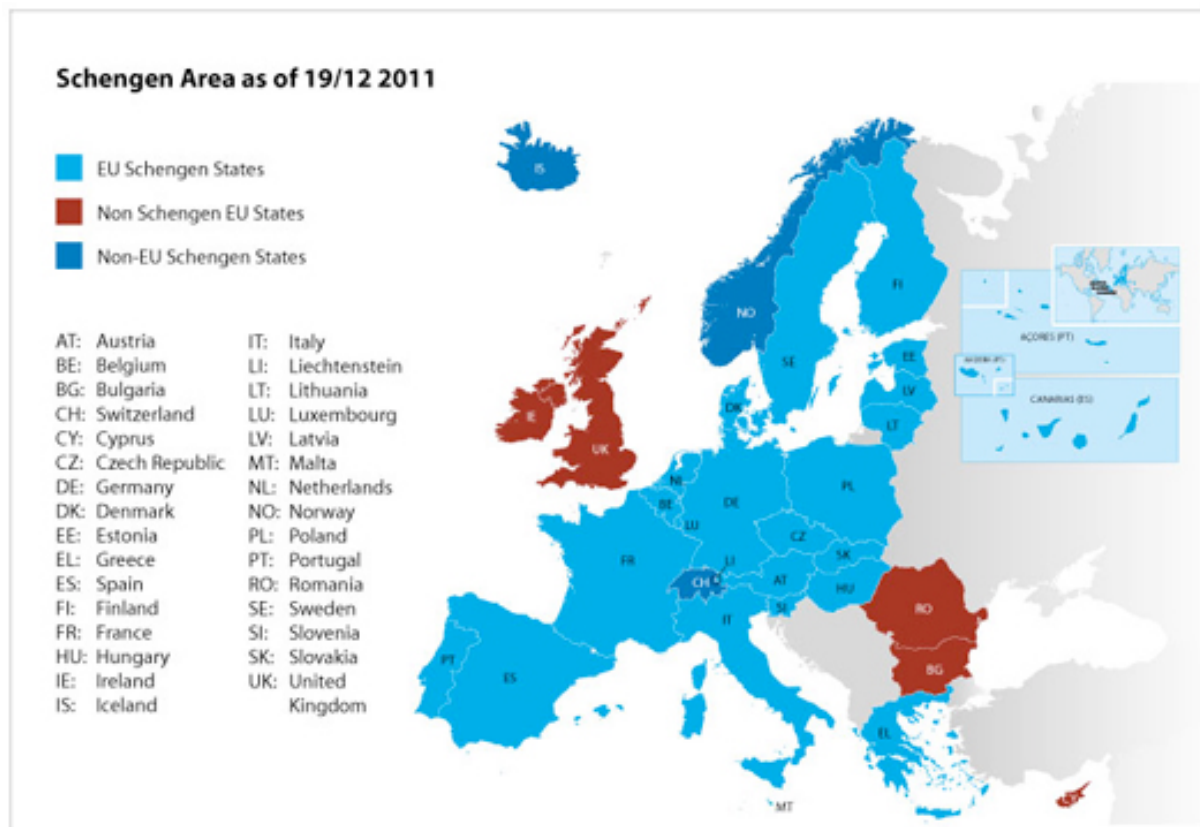
⁴ Image source: <http://www.colourbox.com/image/visa-application-denied-stamp-shows-entry-admission-refused-image-4207561>

Glossary of key terms

(source: website of the European Commission – DG Home Affairs - last check: 29 November 2012)

Schengen Area⁵

As of December 2011, the Schengen Area consists of the following **EU States**: Belgium, Czech Republic, Denmark, Germany, Estonia, Greece, Spain, France, Italy, Latvia, Lithuania, Luxembourg, Hungary, Malta, Netherlands, Austria, Poland, Portugal, Slovakia, Slovenia, Finland and Sweden. This means that the other EU States (i.e. Bulgaria, Cyprus, Ireland, Romania and the United Kingdom) are not (yet) part of Schengen. Whilst Iceland, Liechtenstein, Norway and Switzerland are **not EU States**, they have signed an Association Agreement in order to be associated with the implementation, application and development of the Schengen *acquis*.



The free movement of persons is a fundamental right guaranteed by the EU to its citizens. It entitles every EU citizen to travel, work and live in any EU country without special formalities. Schengen cooperation enhances this freedom by enabling citizens to cross internal borders without being subjected to border checks. The border-free Schengen Area guarantees free movement to more than 400 million EU citizens, as well as to many non-EU nationals, businessmen, tourists or other persons legally present on the EU territory.

(...) in 1985 cooperation between individual governments led to the signing, in Schengen (a small village in Luxembourg), of the Agreement on the gradual abolition of checks at common borders, followed by the signing in 1990 of the Convention implementing that Agreement. The implementation of the Schengen Agreements started in 1995, initially involving seven EU States. Born as an intergovernmental initiative, the developments

⁵ http://ec.europa.eu/dgs/home-affairs/e-library/glossary/index_s_en.htm and http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/schengen/index_en.htm

brought about by the Schengen Agreements have now been incorporated into the body of rules governing the EU. (...)

Any person, irrespective of nationality, may cross the internal borders without being subjected to border checks. However, the competent national authorities can carry out police checks also at the internal borders and in border areas, provided that such checks are not equivalent to border checks. (...)

If there is a serious threat to public policy or internal security, a Schengen country may exceptionally reintroduce border control at its internal borders for, in principle, a limited period of no more than thirty days. If such controls are reintroduced, the other Schengen countries, the European Parliament and the Commission should be informed, as should the public.

The Schengen provisions abolish checks at the Union's internal borders, while tightening controls at the external borders, in accordance with a single set of rules. These rules cover several areas:

- a common set of rules applying to people crossing the EU external borders, including the types of visa needed and how checks at external borders have to be carried out
- **harmonisation of the conditions of entry and of the rules on visas for short stays (up to three months)**
- enhanced police cooperation (including rights of cross-border surveillance and hot pursuit)
- stronger judicial cooperation through a faster extradition system and transfer of enforcement of criminal judgments
- establishment and development of the Schengen Information System (SIS)⁶
- documents needed for travelling in Europe⁷

Cultural organisations

For the purpose of this report, we define “cultural organisations” the private, independent, public or semi-public institutes, institutions, organisations, companies working in the field of arts and culture and inviting/ sending artists abroad, included, but not limited to, galleries, museums, artistic residencies, dance and theatre companies, collectives, theatres, festivals, biennales, cultural centres etc.

DG Home Affairs⁸

The Directorate-General of the European Commission in charge of the policy area known as "Home Affairs". DG Home manages policies that aim at ensuring that all activities necessary and beneficial to the economic, cultural and social growth of the EU may develop in a stable, lawful and secure environment. More specifically, it works to build an open and safer Europe.

⁶ http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/schengen-information-system/index_en.htm

⁷ For EU citizens: valid passport or identity card. For non-EU citizens: valid passport and visa.

http://europa.eu/travel/doc/index_en.htm

⁸ http://ec.europa.eu/dgs/home-affairs/who-we-are/about-us/index_en.htm

EU Visa code⁹

This regulation establishes the procedures and conditions for issuing visas for short stays in and transit through the territories of Member States. It also lists the third countries whose nationals are required to hold an airport transit visa when passing through the international transit areas of Member States' airports and establishes the procedures and conditions for issuing such visas.

Long-stay visas (D)¹⁰

Visas for stays exceeding three months and with a maximum validity of one year are national visas issued in accordance with Member States' national legislation. They were only recorded in the visa data compilation until 2010. Therefore, D visas will not be included in the 2011 and following data compilations.

Proof of sponsorship¹¹

Article 14 of the EU visa code states that Member States may require applicants to present a proof of sponsorship and/or private accommodation by completing a form drawn up by each Member State. That form shall indicate in particular:

- (a) whether its purpose is **proof of sponsorship** and/or of accommodation;
- (b) whether the host is an individual, a company or an organisation;
- (c) the host's identity and contact details;
- (d) the invited applicant(s);
- (e) the address of the accommodation;
- (f) the length and purpose of the stay;
- (g) possible family ties with the host.

Short stay visas (C)¹²

- a) Uniform short stay visas entitle the holder to stay in the territories of all Member States for a period of maximum 90 days/180 days. Such visas may be issued for the purpose of a single ("C") or multiple entries ("MEV C Visas").
- b) A short stay visa with limited territorial validity ("LTV") entitles the holder to stay only in the Member State(s) for which the visa is valid.

⁹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009R0810:EN:NOT> (EU visa code – full text);
http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/jl0028_en.htm (definition and summary)

¹⁰ *ibidem*

¹¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:243:0001:01:EN:HTML>

¹² http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/pdf/explanation_of_types_of_visa_en.doc

Visa (Schengen visa)¹³

An authorisation issued by a Schengen State with a view to:

- transit through or an intended stay in the territory of the Schengen States of a duration of no more than three months in any six-month period from the date of first entry in the territory of the Schengen States,
- transit through the international transit areas of airports of the Schengen States.

There are 42 countries whose nationals **do not need a visa** to visit the EU for three months or less¹⁴. These include Australia, Canada, Croatia, Japan, New Zealand and the United States. The list of countries whose nationals require visas to travel to the United Kingdom or Ireland differs slightly from other EU countries. Apply for a visa from the consulate or embassy of the country you are visiting.

If your visa is issued by a country fully applying the Schengen rules, it automatically allows you to travel to the other Schengen countries as well. Moreover, if you have a valid residence permit from one of those Schengen countries, it is equivalent to a visa. You may need a national visa to visit non-Schengen countries.

Border officials in EU countries may ask for other supporting documents such as an invitation letter, proof of lodging, return or round-trip ticket. For the precise requirements contact the local consular services of the EU country in question.

Visa facilitation agreement (VFA)¹⁵

Agreements between the EU and a non-EU country that facilitate the issuance by an EU State of authorisations to the citizens of that non-EU country for transiting through or an intended stay in the territory of EU States of a duration of no more than three months in any six-month period from the date of first entry into the territory of the EU States.

So far, the EU has concluded visa facilitation agreements with nine non-EU countries:

Albania – Bosnia-Herzegovina – FYROM – Georgia – Moldova – Montenegro – Serbia
Russia - Ukraine.

Based on these agreements, both the EU and non-EU citizens benefit from facilitated procedures for issuing visas and a reduced visa fee (currently 35 EUR). In addition, people travelling for cultural and artistic purposes are clearly mentioned as travellers who should be entitled to particularly easy procedures¹⁶.

¹³ http://ec.europa.eu/dgs/home-affairs/e-library/glossary/index_v_en.htm#Visa and http://europa.eu/travel/doc/index_en.htm

¹⁴ see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2001R0539:20091219:EN:PDF>

¹⁵ http://ec.europa.eu/dgs/home-affairs/e-library/glossary/index_v_en.htm#Visa and http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/index_en.htm

¹⁶ http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/borders-and-visas/visa-policy/index_en.htm

Chapter 1. Artists' mobility and visas: what's the matter?

It is important to stress that **this report focuses on non-EU artists and cultural professionals invited by EU-based organisations** and needing a Schengen visa. This, however, is part of a bigger picture, which includes artists who are not invited but want to enter the Schengen area (travelling on their own, e.g. looking for partnerships, collaborations, opportunities; inspiration; attending training; etc.) and professionals from other sectors needing a Schengen visa for personal or professional reasons.

Most of the problems reported by the respondents to the survey, and detailed in the following pages, **are indeed faced also by other categories of travellers**. Problems mainly arise from a set of features: frequent travelling, short notice (and difficulties in preparing the applications in advance so as to have a response on time), precarious working conditions and irregular and/or low revenues, which make it difficult to comply with the “proof of financial means” required for the applications. However, **the specificity of artists' situation**, comparing to other categories of travellers, is that **artists generally present all these features together**: they travel frequently (so they request frequently visas, and they cannot always go in person to the Embassy/ Consulate/ agency dealing with their application), they often receive invitations with short notice and need a response quite quickly, they often have a “precarious” employment status (mostly freelancers or self-employed) and discontinuous / low incomes.



1.1. Problems with external agencies dealing with visa applications

The visa applications are sometimes dealt with by **external service providers** cooperating on a contractual basis with Member States. While the final decision on each application is still the responsibility of the Consular representations, Member States outsource certain parts of the visa handling procedure to cut costs and/or to solve problems of human resources' shortage, to enhance the consular network (e.g. outside capitals) and in some cases encourage the applicants to apply via external agencies rather than at Embassies/ Consulates. This in principle means faster procedures, but also higher costs (service fee) for the applicants and, as some respondents point out, less "one-to-one" engagement, i.e. less personal contact between the applicants and the institution processing the application, and less opportunities to explain the individual cases.

The respondents to OTM survey pointed out specific **problems in dealing with external service providers**: the long waiting time to fix a meeting for an interview, the need to call a private telephone company to fix a meeting – at higher rates than a normal local call, and only reachable via telephones located in the country (not allowing de facto EU-based organisers to help with the visa process) –, and the need to pay for a service fee on top of the normal visa fee, without of course any guarantee that the visa will actually be issued in the end. Some agencies offer different services for different costs (e.g. the basic fee only cover the application process, paying a bit more the applicants can wait in a waiting room instead of standing outdoors, etc.), and this calls into question the principle of **equality before the law**.

"The embassies (...) also give the option to apply at the embassy but their working hours are much more limited and it can take much longer time to get the visa. Then only the visa fee is required though. I wanted to apply at the embassy and to make sure I wanted to call them in advance. No one answered my phone calls and I was constantly directed to the agency when I asked for visa info. In the end, I didn't risk being late and got my visa paying that extra 35 euros. This shows that not only embassies but also other companies are now using visa applications as a source of income. And it looks like embassies are encouraging this because it reduces their workload and one-to-one engagement with applicants." (#23 – from Turkey)

How should things go?

In principle, the collaboration with external service providers is meant as a way to provide a better service to the applicants. The visa procedure is public and in principle should be carried out by the Consulates or Embassies; however, in particular circumstances or for reasons relating to the local situation Member State may, "as a last resort", cooperate with an external service provider (Art. 40 of the EU visa code) for the purpose of the collection of visa applications whereas the decision on the application remains the responsibility of the Member States' authorities. However, the consulate should always be available for lodging applications.

The EU visa code sets precise rules for the collaboration with external service providers, valid for all EU Member States: detailed rules exist on the tasks that can be outsourced, the responsibilities and obligations of the external service providers, the maximum applicable fee requested by the external agency (up to 50% of the visa fee maximum) etc. The collaboration shall be regulated by a **specific contract** between the Member State(s) and the private company; the contract should include a set of issues stated clearly by the EU visa code, including data protection and the **behaviour of the staff** (respect of human dignity, integrity of the applicant, non discrimination, etc.).

The EU visa code also states the **obligation for Member States (MS) and Consulates to monitor regularly the external service providers**, to share information with the other local representations of MS on reasons for contracting or terminating the contract with, external agencies, and in case of serious problems, to terminate the contract with that company and announce it publicly (while ensuring that the service keeps going).

Article 43

Cooperation with external service providers

1. Member States shall endeavour to cooperate with an external service provider **together with one or more Member States**, without prejudice to public procurement and competition rules.

2. Cooperation with an external service provider shall be based on a **legal instrument** that shall comply with the requirements set out in Annex X.

4. The examination of applications, interviews (where appropriate), the decision on applications and the printing and affixing of visa stickers shall be carried out only by the consulate.

5. External service providers shall not have access to the VIS under any circumstances. Access to the VIS shall be reserved exclusively to duly authorised staff of consulates.

8. The Member State(s) concerned shall ensure that the external service provider selected complies with the terms and conditions assigned to it in the legal instrument referred to in paragraph 2.

10. **The Member State(s) concerned shall provide training to the external service provider**, corresponding to the knowledge needed to offer an appropriate service and sufficient information to applicants.

11. **The Member State(s) concerned shall closely monitor the implementation of the legal instrument** referred to in paragraph 2, including:

(a) the **general information** on visa requirements and application forms provided by the external service provider to applicants;

(b) all the technical and organisational security measures required to **protect personal data** against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access (...);

(c) the collection and transmission of biometric identifiers;

(d) the measures taken to ensure compliance with data protection provisions.

To this end, **the consulate(s) of the Member State(s) concerned shall, on a regular basis, carry out spot checks on the premises of the external service provider.**

13. Member States shall provide the Commission with a copy of the legal instrument referred to in paragraph 2.

The Member States should notify the contract to the European Commission, and the EC should check that the contract complies with the requirements included in the EU visa code. Article 45 of the EU visa code sets **specific monitoring measures that Member States should adopt to monitor the activities of commercial service providers**. Information about accredited commercial intermediaries shall be exchanged between Member States.

Article 45

Member States' cooperation with commercial intermediaries

3. **Accredited commercial intermediaries shall be monitored regularly by spot checks** involving **personal or telephone interviews with applicants**, verification of trips and accommodation, verification that the travel medical insurance provided is adequate and covers individual travellers, and wherever deemed necessary, verification of the documents relating to group return.

(...)

Each consulate shall make sure that the public is informed about the list of accredited commercial intermediaries with which it cooperates.

Annex X of the EU visa code sets out the content of the legal instrument (contract) stipulated between the Member States and commercial providers, includes very clear indications about **monitoring procedures**, from test applications, to webcams, to inspections without prior notification. Commercial service providers are also obliged to report to MS about complaints from applicants on data misuse or unauthorised access, however there is no mention about complaints regarding the behaviour of the staff or difficulties in accessing the service provider (problems mentioned by several respondents to the survey).

ANNEX X

LIST OF MINIMUM REQUIREMENTS TO BE INCLUDED IN THE LEGAL INSTRUMENT IN THE CASE OF COOPERATION WITH EXTERNAL SERVICE PROVIDERS

C. In relation to the verification of the performance of its activities, the external service provider shall:

- (a) **provide for access by staff entitled by the Member State(s) concerned** to its premises at all times without prior notice, in particular **for inspection purposes**;
- (b) ensure the possibility of **remote access** to its appointment system for inspection purposes;
- (c) ensure the use of **relevant monitoring methods** (e.g. test applicants; webcam);
- (d) ensure access to proof of data protection compliance, including reporting obligations, external audits and regular spot checks;
- (e) report to the Member State(s) concerned without delay any security breaches or **any complaints from applicants** on data misuse or unauthorised access, and coordinate with the Member State(s) concerned in order to find a solution and give explanatory responses promptly to the complaining applicants.

The monitoring of the activities of external service providers in principle should be carried out by the Member States.

More and more consulates and Member States work with external service providers, the main reason being that they cannot implement the procedures in a quick and good way without the help of external companies due to lack of staff and money/adequate funding, and to the parallel increase in requests for visas. Although in principle the EC can support

MS to set up more consulates through the External Borders Fund, in reality external service providers are more and more used. **External agencies are mostly used in big countries** like India, Russia, Ukraine and where the number of visa applications is very high, and these are the countries where most applications are lodged via external service providers. Compilations have not been made of the number of visa applications lodged via external service providers. Global statistics about visas are available¹⁷, though, as well as a table on *Member States' consular presence, representation arrangements and forms of cooperation for the collection of visa applications, collection by Honorary Consuls or outsourcing of the collection of visa applications* (Annex 28 of EU Visa Code)¹⁸.

The EU visa code recommends that MS share external providers, ensuring equal treatment to the applicants; subcontracting should be made launching public tenders, to be awarded to the best companies.

¹⁷ http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/index_en.htm

¹⁸ http://ec.europa.eu/home-affairs/doc_centre/borders/docs/Annex%2028_MS%27%20CONSULAR%20REPRESENTATION_16%20%2004%202012_EN%20CL.pdf#zoom=100

1.2. Difficulties in the communication with the personnel/authority dealing with the visa applications or running the interviews

This is the most common problem mentioned by the respondents to OTM survey, and it can take different forms. In many cases applicants report difficulties in communicating about their work as artists, their need for a visa to travel for professional reasons and even **to prove that one is really an artist** (a problem affecting in particular the young and emerging ones). Often **the way in which the interviews are carried out** by officials is reported as problematic: some people mentioned being treated as if they were applying with the excuse of their artistic practice, while actually having illegal immigration plans or worse. Several respondents have even reported **humiliating procedures**.

"I had to get a visa from the Austrian embassy to attend the ICOM conference in Vienna. I was given a very rough time. The embassy kept asking for documents that had already been sent to them by ICOM as well as myself. Even when the document was sent to them they claimed they never saw them. It was infuriating. Getting a Schengen visa is a very difficult thing. One was degraded and humiliated at the embassy. This started from the gate and it got worse at the consular office." (#19 - Nigeria)

In general there seems to be a **misunderstanding of the specific conditions of artists' mobility**, in particular the combination of short notice for the invitation, low / irregular income and lack of clear professional status – the latter playing a key role as it can even be difficult to explain one's artistic work. Additionally it seems to be unclear for most of the officers dealing with application **what cultural mobility is** exactly.

Another problem frequently reported by the respondents to OTM survey concerns the **proof of financial means**, (e.g. to have enough money on one's bank account to live in the EU for a certain period), a requirement applying to all visa applicants as a part of the "risk assessment" (Art. 21 of the EU visa code). For those having low and/or irregular incomes – often the case for artists – it

can be difficult sometimes to provide such evidence. In addition this is perceived by most respondents as redundant in case of short visits to Europe (e.g. for a few performances, to attend the opening of their own exhibition...) and when the costs connected to the visit are fully covered by a EU-based inviting organisation, a condition clearly stated on the official sponsorship letters provided with the applications.

It has been noted that the **lack of a contact person at the Consulates/ Embassies** is a key point, as it would allow the artists to explain their specific cases properly; as already mentioned, the **problem gets worse when the applications are dealt with by external service providers**, where applicants tend to be treated as just numbers.

"The first time I was invited to Denmark, it took nine months to get a visa. I had to visit the embassy repeatedly, answer questions as humiliating as 'how do we know you're actually an artist?', and even then my answers weren't good enough. I was asked first to bring in some 'samples' of my work, and then photographic evidence of my work displayed in a public place, to an audience. I had to answer these questions to people behind a glass wall, not even face to face. The whole time, the university that had invited me was contacting the embassy, trying to help, but that made no difference." (#62 - Egypt)

"When artists work and do activities, it is hard for us without the support to get a bank statement for each and everyone in the group, this term complicates things very much on us, while in this time we have all the expenses covered, but the bank statement, blocks our all short term activities in Europe." (#33 - Yemen)

How should things go?

The EU visa code requires the applicants to prove that they have **sufficient means of subsistence** and reasons to go back to the country of origin. Consulates can check other conditions besides the bank account; an employment contract could be the easiest way to prove that the applicants have sufficient financial means to support her/his stay in the EU. Article 21 of the EU visa code states clearly that **the proof of private sponsorship may constitute proof of sufficient subsistence means** - and in case of artists providing an official sponsorship letter, stating that all costs are paid by the inviting organisation, this condition could probably be considered as met.

Article 14

Supporting documents

1. When applying for a uniform visa, the applicant shall present:

(a) documents indicating the purpose of the journey;

(b) documents in relation to accommodation, or proof of sufficient means to cover his accommodation;

(c) **documents indicating that the applicant possesses sufficient means of subsistence** both for the duration of the intended stay and for the return to his country of origin or residence, or for the transit to a third country into which he is certain to be admitted, **or that he is in a position to acquire such means lawfully**, in accordance with Article 5(1)(c) and (3) of the Schengen Borders Code;

(d) information enabling an assessment of the applicant's intention to leave the territory of the Member States before the expiry of the visa applied for.

4. **Member States may require applicants to present a proof of sponsorship and/or private accommodation** by completing a form drawn up by each Member State. (...)

6. Consulates may waive one or more of the requirements of paragraph 1 in the case of an applicant known to them for his integrity and reliability, in particular the lawful use of previous visas, if there is no doubt that he will fulfil the requirements of Article 5(1) of the Schengen Borders Code at the time of the crossing of the external borders of the Member States.

Article 21

Verification of entry conditions and risk assessment

5. The means of subsistence for the intended stay shall be assessed in accordance with the duration and the purpose of the stay and by reference to average prices in the Member State(s) concerned for board and lodging in budget accommodation, multiplied by the number of days stayed, on the basis of the reference amounts set by the Member States in accordance with Article 34(1)(c) of the Schengen Borders Code. **Proof of sponsorship and/or private accommodation may also constitute evidence of sufficient means of subsistence.**

At the same time, according to Article 21(1) of the Visa Code, in the examination of an application for a uniform visa particular consideration shall be given to assessing whether the applicant presents a risk of illegal immigration or a risk to the security of the Member States and whether the applicant intends to leave the territory of the Member States before the expiry of the visa applied for. The socio-economic situation of the applicant (e.g. income) in fact can play a role while carrying out the risk assessment.

According to the EU visa code, **Member States should train their staff and make sure that the staff of the external agencies is duly trained as well**; the EU visa code provides precise details in terms of **conduct of the personnel**, with specific reference to the **full respect of human dignity** and the obligation to receive the applicants courteously.

Article 38

Resources for examining applications and monitoring of consulates

1. Member States shall deploy appropriate staff in sufficient numbers to carry out the tasks relating to the examining of applications, in such a way as to ensure reasonable and harmonised quality of service to the public.
2. Premises shall meet appropriate functional requirements of adequacy and allow for appropriate security measures.
3. **Member States' central authorities shall provide adequate training to both expatriate staff and locally employed staff** and shall be responsible for providing them with complete, precise and up-to-date information on the relevant Community and national law.
4. **Member States' central authorities shall ensure frequent and adequate monitoring of the conduct of examination of applications** and take corrective measures when deviations from the provisions of this Regulation are detected.

Article 39

Conduct of staff

1. **Member States' consulates shall ensure that applicants are received courteously.**
2. **Consular staff shall, in the performance of their duties, fully respect human dignity.** Any measures taken shall be proportionate to the objectives pursued by such measures.
3. While performing their tasks, consular staff shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

ANNEX X

**LIST OF MINIMUM REQUIREMENTS TO BE INCLUDED IN THE LEGAL INSTRUMENT
IN THE CASE OF COOPERATION WITH EXTERNAL SERVICE PROVIDERS**

B. In relation to the performance of its activities, the external service provider shall, with regard to the **conduct of staff**:

- (a) ensure that its staff are appropriately trained;
- (b) ensure that its staff in the performance of their duties:
 - receive applicants courteously,
 - respect the human dignity and integrity of applicants,
 - do not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, and
 - respect the rules of confidentiality which shall also apply once members of staff have left their job or after suspension or termination of the legal instrument;
- (c) provide identification of the staff working for the external service provider at all times;
- (d) prove that its staff do not have criminal records and have the requisite expertise.

1.3. Transparency and accuracy of the information

“Transparency of the information” is an overarching term which refers to a number of difficulties reported by the respondents.

Some of the reported stories point out that in case of journeys including visits to more than one Schengen country, it is hard to **understand to which Member State the applicants should lodge the application**, and the information available on the websites or received by phone is sometimes confusing or contradictory.

According to the respondents, the **information about the documents needed** to apply for a visa and the visa procedure itself is not always provided clearly on the Embassies’/ Consulate’s websites (or on the websites of the external service providers). In particular, it is not clear what **additional documents** the applicants can be requested to provide by the Embassy/ Consulate/ external service provider if more details are needed to clarify her/ his position. In addition, it has been reported that sometimes a key document – included in the “normal” list – was missing and the applicants were not informed immediately of their mistake, but only after a long time, thus delaying further the procedure.

Providing additional documents requires additional money and time. Some applicants need to travel a long distance to first obtain and submit the documents, as the Consulate/ Embassy may be located in another region (or even country); this problem is likely to increase since, due to the economic crisis, more and more EU Member States are closing down Embassies and Consulates around the world. Such problems are clearly more acute for artists living in conflict zones, who find themselves in an extreme situation.

Problems in terms of information occur also when a visa application has been filed and **the applicant wishes to know about the status of the application** and how long it will take before the final response. Several respondents report that they tried to get in touch with the Embassy/ Consulate/service provider dealing with their applications, but they could not get any information about the status of their application. It was noted during the workshop that there is no way for the applicants – or the civil society at large – to check if applications are dealt with in full transparency and procedures are applied correctly.

Finally many respondents report that **visas are refused without proper explanations** by the institution or company dealing with the procedure.

I had applied for the Schengen Visa from Germany last summer, 2011, for a two-month residency in Berlin. My gallery had invited me and had offered to pay for a room, a studio and meals during my stay. Unfortunately the German Consulate kept my passport for almost a month charged the visa fees and kept asking for more documents that were not listed nor on the application process online nor on the paperwork I had gathered from the consulate. The Consulate wanted to see every bank document of my gallerist and her tax returns. Because she was just settling in Germany she did not have a proper account with cash and had not paid taxes yet. They asked her to go to the Ausländerbehörde and made her pay around 30 Euros to only get a document. In order not to get a rejection from a Schengen Consulate I decided to pull back my passport after a month. They stamped one page in my passport noting that my passport was kept for one month. This stamp on my passport alerted the Italian Consulate the next time I applied for the Schengen Visa from the Italian Consulate. (#24 - Turkey)

How should things go?

Information about the visa procedures and the documents requested should be provided in a transparent and complete way by the Consulates'/ Embassies' websites, according to the EU visa code.

Article 47

Information to the general public

1. Member States' central authorities and consulates shall provide the general public with all relevant information in relation to the application for a visa, in particular:

- (a) the **criteria, conditions and procedures** for applying for a visa;
- (b) the means of obtaining an appointment, if applicable;
- (c) where the application may be submitted (competent consulate, Common Application Centre or external service provider);
- (d) accredited commercial intermediaries;
- (f) the time limits for examining applications provided for in Article 23(1), (2) and (3);
- (h) **that negative decisions on applications must be notified to the applicant**, that such decisions must state the reasons on which they are based **and that applicants whose applications are refused have a right to appeal, with information regarding the procedure** to be followed in the event of an appeal, including the competent authority, as well as the time limit for lodging an appeal;

Providing information about the **right to receive explanations in case of refusal of a visa** is mandatory as well: refusals shall be notified through a standard form defined by the EU visa code and specifying the reason(s) for the refusal and how to appeal.

Article 32

Refusal of a visa

2. **A decision on refusal and the reasons on which it is based shall be notified to the applicant** by means of the standard form set out in Annex VI.

3. **Applicants who have been refused a visa shall have the right to appeal.** Appeals shall be conducted against the Member State that has taken the final decision on the application and in accordance with the national law of that Member State. Member States shall provide applicants with information regarding the procedure to be followed in the event of an appeal, as specified in Annex VI.

ANNEX VI

STANDARD FORM FOR NOTIFYING AND MOTIVATING REFUSAL, ANNULMENT OR REVOCATION OF A VISA

(1)

REFUSAL/ANNULMENT/REVOCATION OF VISA

Comments: The person concerned may appeal against the decision to refuse/annul/revoke a visa as provided for in national law. **The person concerned must receive a copy of this document. Each Member State must indicate the references to the national law and the procedure relating to the right of appeal**, including the competent authority with which an appeal may be lodged, as well as the time limit for lodging such an appeal.

Appeal procedures remain the responsibility of the Member States. From a practical point of view, however, sometimes it may be more practical for the applicant to lodge a new application and/or provide all the additional documents required, as the appeal procedure could take too long and the visa be issued too late for the purpose of the travel.

As regards the additional documents that can be requested, the EU visa code includes a **non-exhaustive list of supporting documents** that can be requested (Annex II), according to the main purpose of the journey. Point A.4 of Annex II refers specifically to journeys undertaken for cultural purposes.

ANNEX II

Non-exhaustive list of supporting documents

The supporting documents referred to in Article 14, to be submitted by visa applicants may include the following:

4. for journeys undertaken for political, scientific, **cultural**, sports or religious events or other reasons:

- invitation, entry tickets, enrolments or programmes stating (wherever possible) the name of the host organisation and the length of stay or any other appropriate document indicating the purpose of the journey;

Within local Schengen cooperation Member States are to **harmonise the list of supporting documents that are to be submitted in a given location**. This work is progressing slowly but steadily¹⁹.

Article 14

Supporting documents

5. Within local Schengen cooperation the need to complete and harmonise the lists of supporting documents shall be assessed in each jurisdiction in order to **take account of local circumstances**.

Visa facilitation agreements between the EU and third countries²⁰ generally contain an article about facilitation for supporting documents, and for certain events (including cultural events) an invitation letter can be enough for justifying the purpose of stay, but not the

¹⁹ see http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/borders-and-visas/visa-policy/index_en.htm for relevant documents on this

²⁰ see the list of countries with a visa facilitation agreement with the EU in the Glossary

fulfilment of the other conditions. These agreements "only" establish what documents are to be submitted to prove the purpose of the journey. Accordingly, the consulates check the other conditions to be fulfilled when applying for a visa.

It should be noted that the Visa Facilitation Agreements (VFA) between the EU and some third countries clearly mention simplified procedures for people travelling for “artistic and cultural activities”. In particular, multiple-entry visas shall be issued more easily to *bona fide* applicants, visa fees shall be waived and invitation letters shall be enough to prove the purpose of the stay²¹.

²¹ see http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/borders-and-visas/visa-policy/index_en.htm for the list of existing VFA

1.4. Timeline of visa procedures

Around a quarter of the respondents to OTM survey (26%) reported that they needed more than 4 weeks to get a Schengen visa. Time is a crucial issue from different points of view.

Fixing a meeting at the Consulate/ Embassy/ service provider is a first challenge, as it can be difficult to get in touch and then to find a suitable time slot for the interview. Often appointments are fixed via the Internet, which makes it easier to see the time slots available, but Internet is not accessible everywhere (e.g. not in countryside areas where there may be problems with electricity). In other cases the appointment can be fixed via a phone call, via an external phone company, more expensive than a local number and only accessible from the same country (see also *Problems in communication*, above). Also **the total procedure can be longer than what is stated on Consulates'/ Embassies' websites**, and be delayed if applicants are required to visit repeatedly the Embassy/ Consulate/ service provider to provide additional documents.

"Both applying and waiting periods could be really long. Some embassies don't have an appointment system so you need to wait at the door of the embassy, 2-3 hours. Still, there is no guarantee that you can apply as they have a quota for every day." (#11 - Turkey)

"We always get difficulty in having appointment for the visa. All embassies use visa service centers which always do not have available time before one or two months and always they at the European side send the documents late so we have to contact the culture attaché or make the European side contact the embassy to give us appointment." (#57 - Egypt)

The length of the bureaucratic procedures clashes with the short notice of the invitations which often characterizes artists' mobility. The situation is likely to get worse due to the current economic climate: on the one hand, EU-based publicly funded organisations have late confirmations of their budgets and therefore are able to invite foreign artists only with short notice; on the other hand Embassies and Consulates have less resources and increasing applications to deal with.

The length of the application procedure has direct **negative economic impacts on the applicants and on inviting organisations**. Applicants are required to show evidence of their

travels to Europe – flight tickets – but they risk missing the flight if the visa is refused, or if the response arrives too late. Ultimately this represents an economic loss for the inviting EU-based organisations/ institutions if they're responsible for buying the flights - and many of them are funded with public – national or EU – money.

Sometimes the direct intervention of the inviting organisation or of the cultural attaché at the Embassy (when there is one) can solve the problems; however personal contacts need to be built, maintained and renewed whenever the staff at the Embassies/ Consulates change.

How should things go?

In principle, for short-stay visas there should be maximum **1 month** between the obtaining an appointment for lodging the application and the final decision on the application.

According to the DG Home, on average 25% of the applicants do not show up at the appointment and this can explain the delays sometimes.

Article 9

Practical modalities for lodging an application

2. Applicants may be required to obtain an appointment for the lodging of an application.

The appointment shall, as a rule, take place within a period of two weeks from the date when the appointment was requested.

3. **In justified cases of urgency**, the consulate may allow applicants to lodge their applications either without appointment, or an appointment shall be given immediately.

Article 23

Decision on the application

1. **Applications shall be decided on within 15 calendar days of the date of the lodging of an application** which is admissible in accordance with Article 19.

2. That period may be extended up to a maximum of 30 calendar days in individual cases, notably when further scrutiny of the application is needed or in cases of representation where the authorities of the represented Member State are consulted.

3. Exceptionally, when additional documentation is needed in specific cases, the period may be extended up to a maximum of 60 calendar days.

1.5. Direct and indirect cost of the visa applications

The **direct costs of the visa** application can be a specific problem, in particular for artistic groups and companies travelling together, who need to pay the visa fees (plus the costs related to the provision of additional documents and possibly the transfers to and from the Embassies/ Consulates/ external service providers to lodge the application) for several people at once.

The visa fee is not refundable, i.e. it is not reimbursed even if in the end the visa is refused. It has to be noticed as well that if an external service provider deals with the application, applicants need to pay a service fee on top of the visa fee.

Respondents to OTM survey report **different costs for the visa fees**. Over half of them (54%) have paid 60 € for applying for the visa, but interestingly over 13% state that they have paid more than 60 €.

However the visa application includes **“indirect costs”**: to produce the documents to include, and additional documents when requested; to call the call centres to fix an appointment if applicants cannot contact the Embassy/ Consulate directly; to go to the

“Beside the visa fee, which is paid in local currency and usually much higher than the market exchange rate, some embassies require the visa applicant to use paid phone service, and paid outsider contractor to process the applications, which increase the visa fees up to 100 Euros each time one travels to Europe.” (#9 - Egypt)

“This whole experience cost me over 600 euros, I had to travel [from Santa Cruz] and stay in La Paz for two days, twice. I was travelling to Germany and Spain. I was told by the information of the visa Schengen in Bolivia that the country that you first touch coming to Europe is where you have to get the Visa from, so I made all the arrangements, got a date and paid the fee and went to La Paz to the Spanish Consulate (...) after I left I received a call from them saying that they can't issue my visa because I was going to stay in Germany longer and hang up, and that I had to go and pick up my passport (...). The point is that I had sent them the airline ticket before along with the other paper that you need to send, they could tell me this before I travel to La Paz. There was no time to go to the other consulate in that trip so I came back to Santa Cruz and did the same procedure again, this time to the German consulate, after one month I had to go again to La Paz... I had to change my flight reservations and meetings; this cost me more money and two trips to La Paz.

I had to cancel my trip to Spain because the event was over. I only went to Germany because of the stamp that the consulate of Spain put on my passport, they only gave me a short time of stay.” (#15 - Bolivia)

Embassy/ Consulate to file the application and then to get the passport with (or without) the visa; and of course, the time needed to prepare all the application and to travel back and forth is time which is not devoted to artistic creation – working time lost and not paid, especially for freelancers (this was the case for most of OTM survey respondents and is in general often the case for artists).

How should things work?

As mentioned, **the EU visa code** contains precise rules for the collaboration with external service providers, valid for all EU Member States, and **caps the maximum applicable fee** requested by the external agency to maximum 50% of the visa fee. According to the European Commission – DG Home, this limit is currently respected everywhere and most of the times fees are lower than the maximum applicable fees.

The EU visa code (art. 16) mentions **certain categories of travellers for whom visa fees shall be waived**, or may be waived; this includes **young cultural professionals** representing non-profit organisations and attending events organised by non-profit organisations. In addition, in individual cases, visa fee may be waived to promote cultural interests.

Article 16

Visa fee

1. Applicants shall pay a visa fee of EUR 60.

4. **The visa fee shall be waived** for applicants belonging to one of the following categories:

(d) representatives of non-profit organisations aged 25 years or less participating in seminars, conferences, sports, **cultural** or educational events organised by **non-profit organisations**.

5. **The visa fee may be waived** for:

(c) participants aged 25 years or less in seminars, conferences, sports, **cultural** or educational events, organised by **non-profit organisations**.

Within local Schengen cooperation, Member States shall aim to harmonise the application of these exemptions.

6. In individual cases, the amount of **the visa fee to be charged may be waived or reduced** when to do so serves **to promote cultural or sporting interests as well as interests in the field of foreign policy, development policy** and other areas of vital public interest or for humanitarian reasons.

Article 17

Service fee

1. **An additional service fee may be charged by an external service provider** referred to in Article 43. The service fee shall be proportionate to the costs incurred by the external service provider while performing one or more of the tasks referred to in Article 43(6).

3. Within the framework of local Schengen cooperation, **Member States shall ensure that the service fee charged to an applicant duly reflects the services offered by the external service provider and is adapted to local circumstances**. Furthermore, they shall aim to harmonise the service fee applied.

4. **The service fee shall not exceed half of the amount of the visa fee set out in Article 16(1)**, irrespective of the possible reductions in or exemptions from the visa fee as provided for in Article 16(2), (4), (5) and (6).

5. **The Member State(s) concerned shall maintain the possibility for all applicants to lodge their applications directly at its/their consulates.**

The visa fee is charged for processing the application; therefore it is not reimbursed to the applicants in case of a refusal. However the visa fee shall be reimbursed if an application is inadmissible and therefore is not examined (Art. 19(3) of the EU visa code).

As for the need to travel very long distances to get a visa, the EU visa code states that:

Art. 5. Member States lacking their own consulate in a third country shall endeavour to conclude representation arrangements with Member States that have consulates in that country.

Art. 6. With a view to **ensuring that a poor transport infrastructure or long distances in a specific region or geographical area does not require a disproportionate effort on the part of applicants to have access to a consulate**, Member States lacking their own consulate in that region or area shall endeavour to conclude representation arrangements with Member States that have consulates in that region or area.

Annex 28 of the Visa Code contains an overview table showing *Member States' consular presence, representation arrangements and forms of cooperation for the collection of visa applications, collection by Honorary Consuls or outsourcing of the collection of visa applications*²².

²²http://ec.europa.eu/home-affairs/doc_centre/borders/docs/Annex%2028_MS%27%20CONSULAR%20REPRESENTATION_16%20%2004%202012_EN%20CL.pdf#zoom=100

Chapter 2. Conclusions and recommendations

2.1. Conclusions from OTM survey and workshop

Several policy documents, studies and researches have already been produced to claim how important artists' mobility is, which – often unjustified – obstacles it faces and which solutions could be put in place²³. Yet at a time when EU Member States are questioning freedom of movement even within the Schengen area by reinstalling border controls and restricting immigration rules, the importance of artists' mobility still needs to be reaffirmed and defended. Now more than ever **Europe needs a thorough political discussion about the role of artists and the importance of their mobility to enrich and nurture the European society**. This applies to European artists moving within Europe and internationally, and to international artists willing to work in and with Europe. Visas are therefore a crucial topic.

Basically the problems faced by artists applying for a Schengen visa are the same encountered by any other applicants from third-countries, regardless of their employment status, purpose of travel or geographical origin. The request for **a special visa for artists**, advanced by some cultural organisations and also by the European Parliament²⁴, remains controversial: labels and preferential treatments should be used carefully, and a similar initiative would require to define “who is an artist” according to common criteria – an objective which seems hard to reach given the lack of agreement on the status of the artists even within the EU²⁵.

Probably it would be easier and more reasonable to pay attention to the **purpose of the visit**, and to adopt an **holistic approach**, confronting applications for artistic/ cultural purposes not only against the standard criteria to be met by all applicants but also according to the **specific conditions in which artists' mobility takes place**, and acknowledging the role of inviting EU-based organisations and the conditions they offer to invited artists, also in economic terms.

Most of the problems experienced by artists and cultural professionals asking for a Schengen visa derive from **the way the single Member States, consulate or even a consular official apply the criteria established by the EU visa code**, which is the common framework in which EU Member States should operate. The current **economic and political environment** in Europe and internationally plays a key role: Embassies and Consulates suffer from cuts in the budget and the staff, while in parallel seeing an increase of visa applications; the visa fees paid by the applicants do not necessarily serve directly for the Embassies'/ Consulates' services; EU countries are constantly and increasingly fighting illegal immigration, restricting as a consequence also legal immigration. **If all this explains a certain degree of discretion, it does not justify arbitrary decisions, humiliating procedures or the lack of transparency in the provision of information, so often reported by artists and cultural professionals from third countries**. Especially when all this is clearly defined and ruled by the EU visa code.

²³ <http://on-the-move.org/librarynew/policyandadvocacy/>

²⁴ Report on the cultural dimension of the EU's external action, by the European Parliament – Committee on Culture and Education: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2011-0112+0+DOC+XML+V0//EN>

²⁵ The status of artist in Europe, 2006, study commissioned by the European Parliament: http://portal.unesco.org/pv_obj_cache/pv_obj_id_23B97D7321C68DACC76DC4CE7A9B2C27FCA71200/filename/Status_artists_in_Europe.pdf

2.2. Recommendations

To the EU Member States:

- To ensure that Consulates/ Embassies or external service providers respect the EU visa code, in particular as regards: the training of the staff; the behaviour of the staff and respect of the human dignity of the applicants; the transparency of the information about procedures, including the motivation for refusals of visas; the information about the right to appeal and the procedures to follow; the effort to avoid multiple travels for the applicants; waived or reduced visa fees in case of journeys for cultural purposes.
- To take into account Art. 16 of the UNESCO Convention on the Promotion and Protection of the Diversity of Cultural Expressions, stating that *“Developed countries shall facilitate cultural exchanges with developing countries by granting, through the appropriate institutional and legal frameworks, preferential treatment to artists and other cultural professionals and practitioners, as well as cultural goods and services from developing countries.”*²⁶
- To put in place a central and long term training system for the staff of Consulates/ Embassies and external agencies, in order to train them (at least one person of the staff) about the specificities of artists’ mobility and to ensure that they respect the EU visa code. To liaise with civil society organisations and cultural attachés at Consulates/ Embassies in order to define the main criteria related to the mobility of artists and cultural operators. To consider shared trainings in particular for some countries issuing a great number of visas (e.g. France and Germany).
- To establish close communications between consular representations and ministries in charge of culture, home affairs and international affairs to ensure that artists and cultural professionals invited by organisations based in the respective Member States enjoy a fair and quick treatment when requesting a visa.
- To support the effort of the European Commission to establish a common list of supporting documents to request to the applicants by consular locations, and to make this list available on their websites and on the websites of the external service providers, when applicable.
- To monitor regularly, as provided by the EU visa code, the activity of external service providers collecting visa applications, in particular in terms of transparency of information, accessibility of the service by the potential applicants, duration of the procedures and behaviour of staff. To report periodically about the monitoring procedures and about the service of the external service providers, and to publish the reports on their websites to make them available for any interested person.
- To acknowledge the specific conditions of artists’ mobility and to report about the problems highlighted in this report – and the complaints received by applicant artists and EU-based cultural organisations – to the Local Schengen cooperation, in order to find viable solutions.
- To collect statistical information about visa applications and results, including breakdowns by purpose of the visits and employment status; and to publish it on the Internet to make it available to the public.

²⁶ http://portal.unesco.org/en/ev.php-URL_ID=31038&URL_DO=DO_TOPIC&URL_SECTION=201.html

To the European Commission – DG Home:

In the view of the upcoming revision of the EU visa code (2013):

- To recognize that the international mobility of artists contributes to the creation of a vibrant European society and that journeys for cultural purposes deserve a preferential treatment, when all the basic entry conditions stated by the EU visa code are met.
- To establish contacts – also through some organizations working as contact-points - with European and international cultural organisations and take their opinions into account for the revision of the EU visa code.
- To make it mandatory for Member States to monitor regularly the activity of external service providers and to publish reports of the monitoring activities, including recommendations to improve the system if needed.
- To state clearly in the EU visa code that invitation letters provided by cultural organisations mentioning that all artists' costs are paid shall be considered as sufficient evidence that the artist has sufficient subsistence means. To list the essential information to include in the invitation letters so as to support the efforts of EU-based organisations inviting artists from third countries.
- To include in the legal instrument regulating the work of service providers that the service provider must report to the concerned Member State any complaint by the applicants regarding the behaviour of the staff dealing with applications.
- To make sure that the DG Home's website provides clear, transparent information in a user-friendly way about the EU visa code, in order to ease the research for reliable, up-to-date information by the public.

To EU-based organizations inviting artists/ cultural operators from third countries:

- To provide Embassies / Consulates with written, clear facts about the artist which usually include: artist's full name, nationality(ies), country of residency, passport number, validity of passport, how long s/he will stay and purpose of visit. To state clearly which costs are covered and who is the contact person in the inviting organisation. If the artist is invited to work and a working contract applies, the organisations should check first with their respective national authorities the required documents and procedure to employ a foreign national for a limited period of time. To send all the information on an official letter (headings, logos, signatures, colours, official stamps etc.).
- To send the invitation and any relevant document as soon as possible, knowing that the procedure can last longer than expected.
- To follow up with embassies / consulates by calling/ emailing and discussing the process. To give the reference of a person of the organisation who can be contacted at any time for clarifications.
- To build connections and trust with their Ministries of Culture, Foreign Affairs, Home Affairs, Ministries or Boards in charge of national immigration policies, and with the Embassies/ Consulates and the national cultural institutes in countries where invited artists work: keep in touch, invite ambassadors / consuls and officers to artistic and cultural events.
- To inform the artists they invite – especially those who have not much experience in the EU - that the visa procedures can be long and burdensome. To “train” them, telling which documents might be required, what to say (and not to say) during the interview, which problems occur more frequently. Not to wait until huge problems appear before taking action, but show the artists they are supported.
- To learn from the experience of organisations having created a special service for artists having problems with visas, i.e. Zone Franche (see below). To give visibility in third countries to organisations who are likely to help (e.g. trade unions, NGOs etc.) and ways to access them.
- To report to Ministries of Culture, of Home and Foreign Affairs, and to professional organisations about any problem which led to visa refusals, in particular when they do not seem to comply with the EU visa code.

2.3. Food for thought



The **Comité Visas Artistes** (Artists' visa committee) was founded in 2009 and is active since 2010. It was created to face the increasing difficulties faced by professional organisations from the music sector in relation to the issuing of visas for invited artists.

The following professional organisations form the Committee: Association Diversités, Zone Franche, CNV, UPFI, SNAM CGT, SFA, PRODISS, UFISC, Organisation Internationale de la Francophonie. **Zone Franche** has been made responsible for its coordination.

The mission of the *Comité Visas Artistes* is to support the professionals from the music sector experiencing difficulties when applying for a visa, and to intervene when there is a blockage. The *Comité* deals with professionals from all music fields and represents all the professions of the music sector: producers, labels, touring artists/companies, artists, programmers, venues etc. The problems dealt with can affect both the recorded music and the live music sectors.

The *Comité* undertakes three kinds of actions:

- **Intervention** with concerned ministries, in case of difficulties in getting a visa or blocking the procedures - following a preliminary study of the specific dossier and only when the dossier clearly complies with all applying administrative rules.
- **Advice** to applicants while preparing their applications. These are complex and change rapidly, and it can be difficult especially for small organisations to keep up with the evolution of the applying rules and requirements. A network of resource persons reply to specific and technical questions from the applicants.
- **Monitoring** of problems faced, in order to clarify the most frequent reasons for difficulties and blockages, in view to avoid problems and produce recommendations.

<http://www.zonefranche.com/index.php?lg=fr>

"The French Ministry of Culture works in connection with the Ministries of Foreign Affairs and Home Affairs, and the ministries try to make sure to inform cultural organisations about the rules applying when they invite foreign artists by producing specification sheets. They also try and anticipate as much as possible the procedures for big events (e.g. Marseille 2013).

In case of last-minute problems regarding visas, there is an informal hot line between the ministry of culture and the ministry of foreign affairs and direct relations with some organisations, e.g. Zone Franche or the BAAPE. When they tell us about last-minute problems, if we are sure that the procedure has been followed strictly and that the application is serious, the ministry of foreign affairs usually calls the concerned Consulate and tries to understand and solve the problem.

Now it might be the right time to act to avoid as much as possible occurring problems. The law does not necessary need to be changed but the procedures can be improved and made more flexible, the people in charge could be more informed and trained on artists' specific needs. A way could be for the foreign affairs to organise training sessions for the staff of consulates and embassies in foreign countries to explain what's an artist, why they should travel more freely... also in connection with the cultural attachés. It would also be good if the consulates could give the appointments in due advance in case of travelling for cultural purposes. A few minor consciousness-raising information of this kind would help avoid a lot of the current problems."

Fabienne Brütt, French Ministry of Culture and Communication

2.4. The next steps

A few key events or initiatives are in the pipeline where advocacy towards improving visa procedures for artists and cultural professionals from third countries could be facilitated. The preliminary list is below:

Events organised by the cultural sector

- January 2013: Online launching of the *Charter for a Sustainable and Responsible Cultural Mobility* by On the Move: this online checklist for policy makers, public and private funders of mobility and cultural organisations will have an important section focused on visa issues. Interested stakeholders will be encouraged to evaluate to what extent their support of cultural mobility is sustainable and to identify ways to improve it, including through the sharing of information and best practices in relation to visa issues.

OTM proposes, if some EU Member States and the DG Education and Culture support it, to produce in partnership with its members and associated partners a *vademecum* for consulate and embassy officials and staff to understand the specificities of the cultural sector and the cultural jargon which can sometimes hinder a smooth visa procedure.

- April 2013: Launch of a new cultural mobility website <http://www.touring-artists.info> by the German Federal Government for Culture, ITI (International Theatre Institute) Germany and IGBK (Internationale Gesellschaft der Bildenden Kuensten). The launch will be articulated around some events including a discussion on visa issues.

- October 2013: WOMEX 2013 in Cardiff, Wales. A discussion on visa issues is expected to be organised together with Wales Arts International, associated expert organisations (such as Zone France) and world music artists and professionals.

Events organised by the European Commission:

- DG Education and Culture is planning a high level seminar with representatives from Ministries of Culture, Home Affairs and Foreign Affairs from EU Member States in early 2013 (as part of the work plan of the EU Agenda for culture). The conclusions of this report as well as additional policy recommendations from the cultural sector could feed into the discussion and possibly lead to concrete action.

- DG Home Affairs will work on the revision of the EU visa code in 2013. The policy recommendations included in this report could be sent to follow-up on the discussion held in November 2012 and suggest concrete amendments to the EU visa code. An online public consultation will be launched in early 2013 by the DG Home (OTM will contribute to the diffusion of the information on this).

Another event you wish to recommend? Please email mobility@on-the-move.org

Annexes

Annex 1 “Artists’ mobility and visas: share your story!” the questionnaire

Part I - GENERAL QUESTIONS - What happens in general when you apply for a visa to enter the Schengen space?

Note: There are no mandatory questions, however for the credibility and reliability of this survey, we encourage you to be as precise as possible in your answers.

1. In which country are you based?
2. What is/are your nationality/ies?
3. In the last 5 years, how many times have you been officially invited by a European organisation for a residency, a collaboration project, a training, a touring etc. (approximately)?
4. Usually how much time does it take you to have a Schengen visa, from the time you applied to the moment your request was actually accepted? (please specify if you applied several times for a Schengen visa):
 up to 2 weeks - between 2 and 4 weeks - more than 4 weeks
5. How much do you pay to obtain a Schengen visa?
 35 € - 60 € - other:
6. Have you been required to have also a residency / work permit to enter a Schengen country?

Part II - SPECIFIC QUESTIONS - Have you experienced any concrete obstacle to get a Schengen visa? Share your story

Note: you can either reply to the following questions or tell your story, possibly using the questions as a suggestion for the information to include.

1. In which country/ies were you based at the time you experienced problems with visas to EU/ Schengen space?
2. What was your job / the organization you worked for at the time of the visa problems?
3. How many times did you experience problems in getting a visa to enter the Schengen area/a Schengen country in the last 5 years (approximately)?
4. What kind of problems did you experience? (If you have encountered problems more than once, please note the most important two problems)
 - Visa refused without proper explanations
 - Lack of representation (Embassy, consulate...) of your country and need to refer to the representation of another Country
 - Lack of a contact person at the embassy/consulate or external agency dealing with visa issues
 - Difficulties in the communication with the personnel/authorities dealing with your application/interviewing you
 - Postponed or cancelled appointments (particularly if you are not based in the city of the said embassy/consulate/agency)
 - Term of visa process longer as indicated on the said embassy/consulate/agency's website
 - Additional requested documents not included in the official list
 - Lack of reliable information received by the inviting organisation
 - Lack of support letter of the organisation you are working for in your country
 - Other:
5. If you were requested to provide additional documents, did it take you much time to prepare them?

6. Did any of these problems imply additional costs for you, in terms of money and time? (e.g. you had to travel several times to get to the embassy/consulate/agency, the embassy was far away and you had to sleep in a hotel to be on time for your interview, you had to produce costly additional documentation...)
7. Which procedures did you find not in compliance with normal procedures?
8. Were you able to find help? By whom?
9. If you could send a message to the authorities and institutions, what would you suggest to improve the situation?
10. If you could send a message to cultural organisations (e.g. Theatre Institutes, organisers of residency opportunities, etc.), what would you recommend to avoid problems with visa issues?
11. Is there any interesting procedure/organisation that you think may help/have helped to facilitate the visa process?
12. Any additional comment?

You can write here your name and email if you wish to be informed of the results of this survey

Could we contact you directly via e-mail if we need further clarification?

Many thanks for your time and collaboration
the On the Move team
website@on-the-move.org
<http://on-the-move.org>

Annex 2 The survey “Artists’ mobility and visas: share your story!” Summary of results

Methodology

The online survey *Artists’ mobility and visas: share your story!* was carried out through a questionnaire available in English and French on On the Move’s website, to be filled in online or sent back via e-mail. Thanks to the collaboration of OTM members Theatre Union of the Russian Federation and Arab Education Forum the questionnaire and information about the survey were also translated into Russian and Arabic.

The survey ran from the end of September to mid-October 2012 and was promoted through OTM monthly newsletter (12,000+ contacts – in English, French, Spanish and Italian), OTM’s Facebook page, and OTM members, who were asked by direct mailing to spread the word about the survey through their own channels.

Overall, **the questionnaire received 88 responses**, of which 80 through the online form (63 in English and 17 in French) and 8 sent via e-mail. A total of 82 valid questionnaires were analysed (although not all of them are complete) and the results are represented in the charts below; 3 questionnaires were not filled in by artists but by European organisers, and provided additional qualitative information which confirmed trends and obstacles.

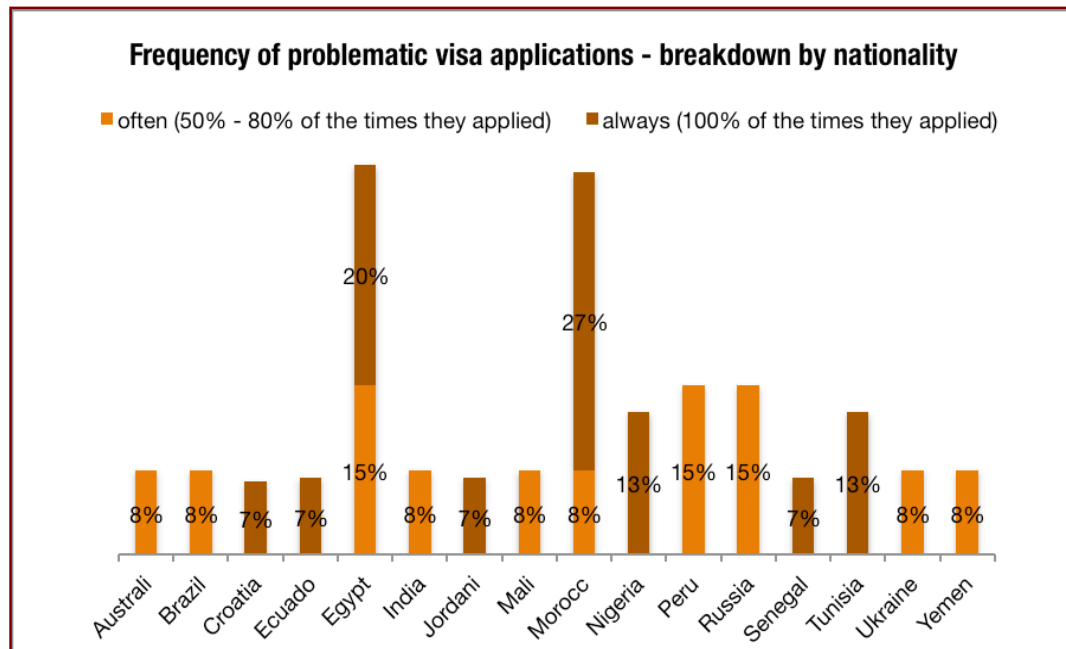
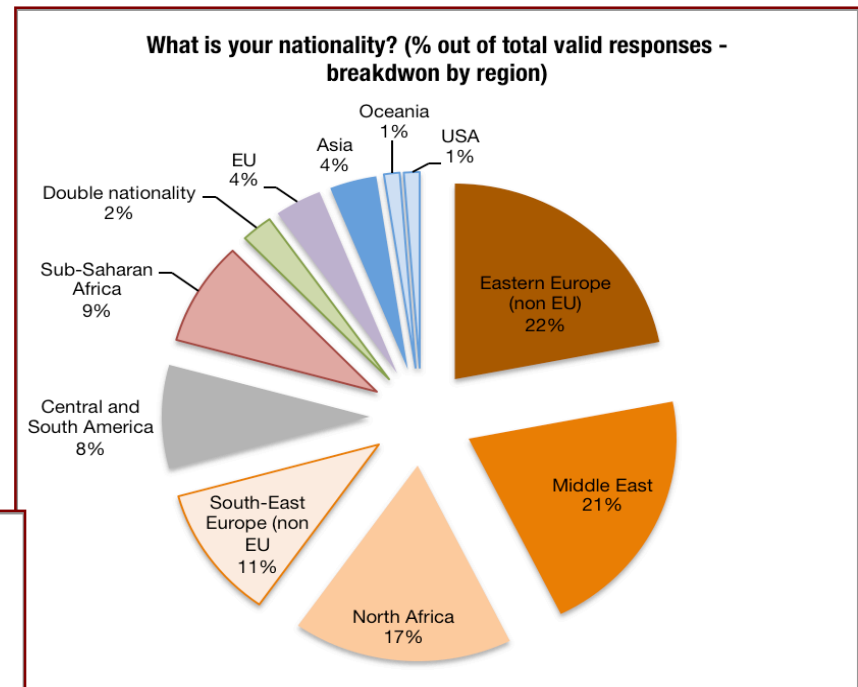
1. Profile of the respondents

In terms of **nationality**, the respondents come from 33 different countries; Europe (non-EU), Middle East and North Africa are the most represented regions (see chart on the right).

Note:

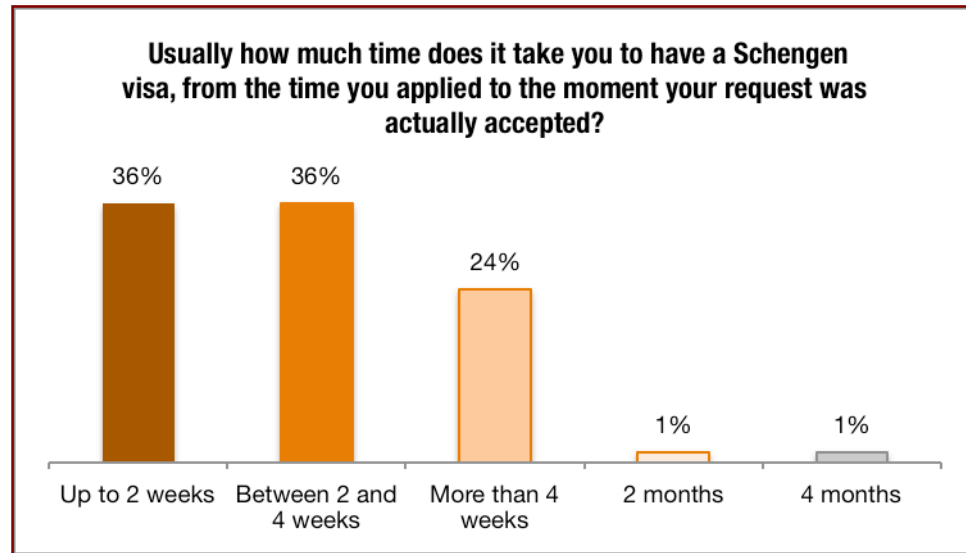
Eastern Europe (non EU): Russian Federation, Ukraine;
South-East Europe (non EU): Turkey, Balkan countries

A consistent part of the respondents have often or always experienced problems with the visa procedures.



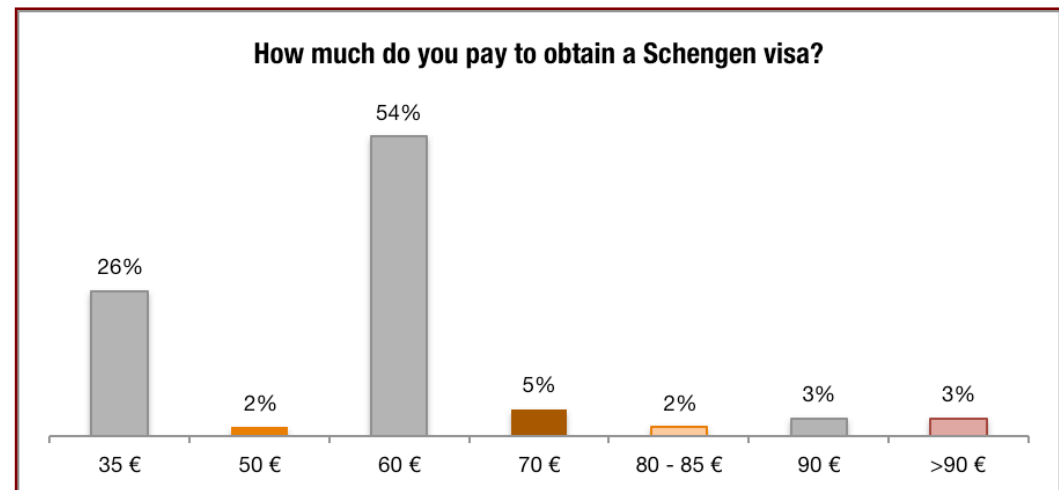
The chart on the left focuses on the **nationalities** experiencing often or always problems when applying for a **Schengen visa**. Egyptian and Moroccan nationals in particular seem those most likely to encounter problems when applying to enter the EU (although it has to be kept in mind that these nationalities are overrepresented among the respondents).

2. The visa procedures



The time needed for getting a visa ranges, for most of the respondents, between 2 and 4 weeks. What calls for attention in the chart on the left is the 24% of the respondents (i.e. around ¼ of them) who usually has to wait more than 4 weeks for a visa. Knowing that artists are often invited abroad with short notice, the need to wait for a long time can compromise or eventually hinder mobility – besides being obviously a source of stress. The long waiting time, and especially the contrast with short-term invitations, is mentioned indeed as one of the main problems encountered in general (see further).

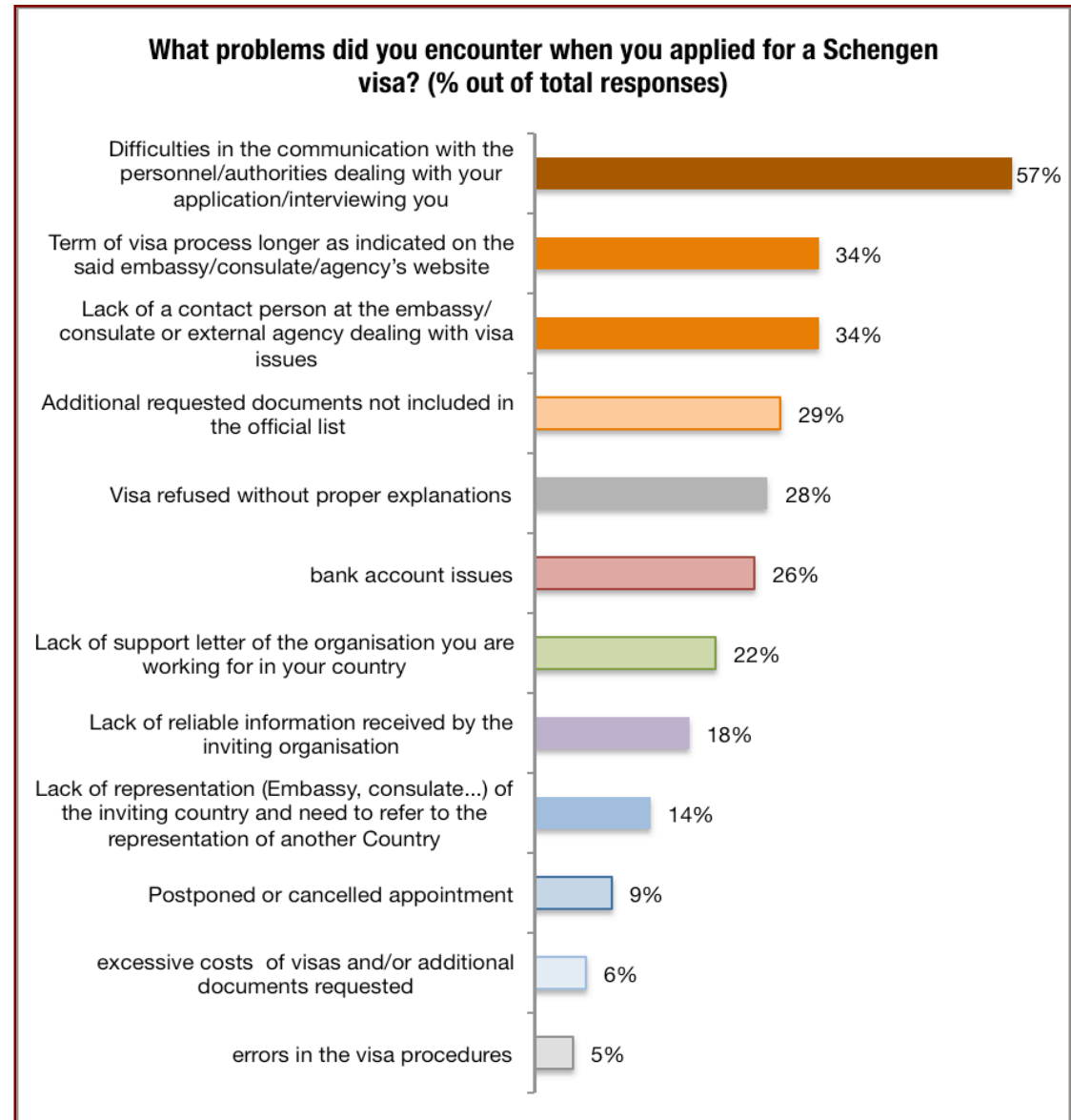
The respondents mostly pay 35 € or 60€ to get a Schengen visa. What is interesting to notice is that some respondents mention a much higher cost – between 70 € and 90 € and even more. These data could obviously not be verified. They might refer to the total costs of the visa procedure: visa, additional documents to provide, postage, fee for the external agency dealing with applications (see further)... or mean that in some cases the costs are actually much higher than for others.



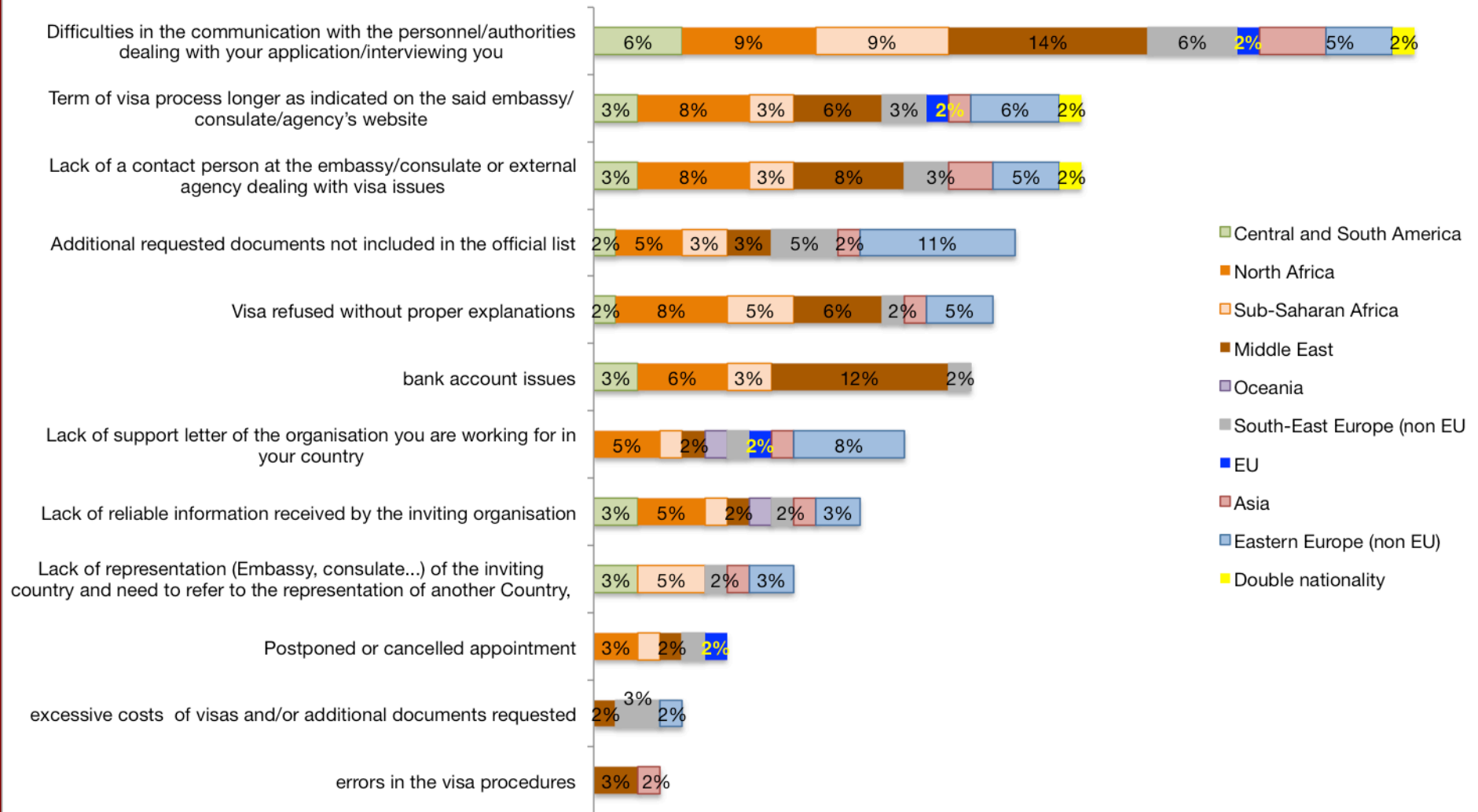
3. Problems experienced when applying for a Schengen visa

The respondents were asked to state **which problems they encountered more frequently** when asking for a Schengen visa, and had two different options to reply them: a check-list with pre-defined responses (multiple choice), which included the open field “other” and the space to write; or a blank space to write their stories. In the end, 65 respondents reported some kind of problems, which were analysed and harmonised by the research team.

The chart below crosses the overall data about the experienced problems with the nationality of the respondents. The citizens of certain regions seem more likely to experience problems: Middle East countries (Egypt, Jordan, Yemen), Sub-Saharan Africa (Ivory Coast, Nigeria, Senegal, Tanzania, Mali), North Africa (Morocco, Tunisia, Algeria), Eastern European countries not in the EU (Russia, Ukraine).



Most frequently encountered problems - breakdown by nationality (region)

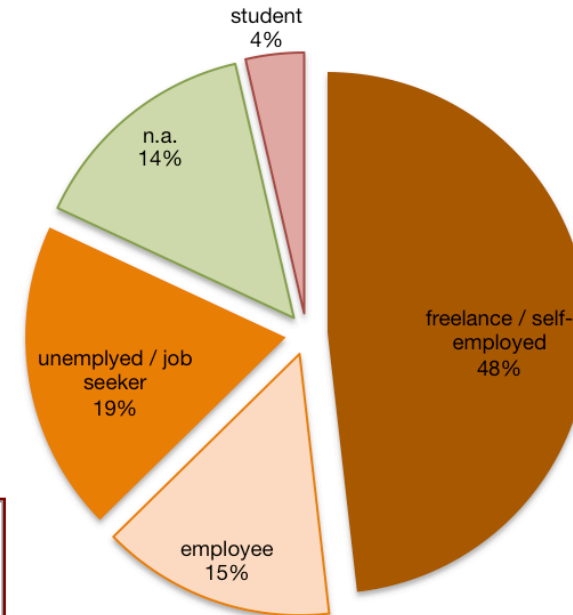


4. Visa procedures and specific artists' conditions

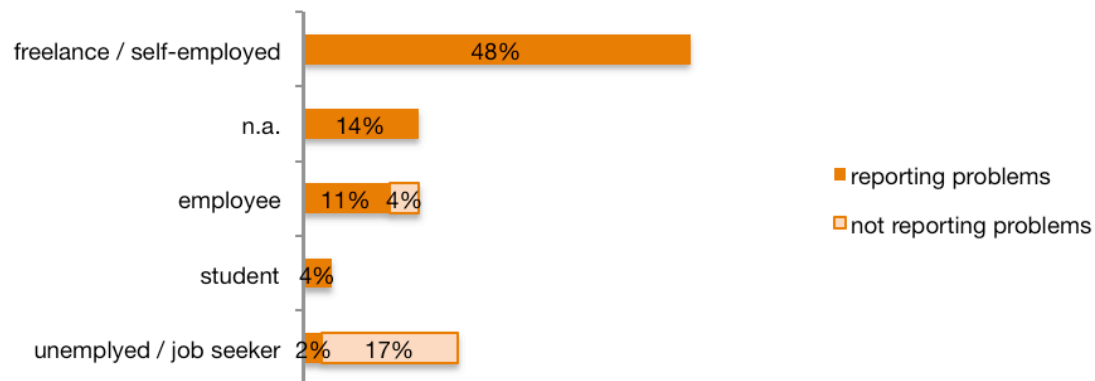
The survey asked the respondents to mention what were their working conditions at the time they experienced problems with visas. As shown by the chart on the right, 48% of the respondents qualified themselves as freelancer or independent artist / cultural operator – terms summed up as “freelance/ self-employed” (although the former has no legal value) in the analysis, to mark the difference with those having a “typical” contract. Other respondents classify themselves as employees (15%), job-seekers or unemployed (19%), students (4%), or did not reply to the question (14%).

As shown in the chart below, **all the respondents who worked as freelance/ self-employed reported some kind of problems** with visa applications.

Total responses - breakdown by employment status at the time of the experience with visa procedures



% of respondents reporting problems (out of total responses)
Breakdown per employment status



Note: the term “freelancer” is used here, combined with “self-employed”, to mark the distinction from people working with “typical” contracts (employees).

Annex 3 The workshop “Artists’ mobility and visas: a step forward”

Programme

Brussels, Belgium - Thursday 15 + Friday 16 November 2012

Thursday 15 November 2012

Session 1: What are we talking about?

Venue: Mundo-B – Lotus room, Rue d'Edimbourg 26, 1050 Bruxelles

- 14.30-16.15: Mobility and visa issues: artists’ & cultural operators’ voices. The discussion will start with the presentation of the main results of the online questionnaire “Artists’ mobility and visas” by OTM secretariat. All OTM members participating will be invited to feedback on this presentation and to share their own practical experiences on the “hot topics” highlighted (*note: preliminary report sent to all participants on 8 November*).
- 16.30-18.00: What can we do, what can we say? Starting from the experiences shared by OTM members during the first part of the discussion, some selected associated partners with specific legal and policy expertise will help formulate better the obstacles and define (1) which issues can be addressed by cultural organisations in their everyday practice, and (2) which issues should be the object of recommendations for policy-makers at different levels.

Friday 16 November 2012

Session 2: From talks to action

Venue: KAAI Forum, c/o Kaaitheater, 19 Square Sainctelette, 1000 Brussels

- 9.15-11.00: Towards advocacy to the EU. This session will involve representatives from the EU (DG Home Affairs and Culture) as well as advocacy organisations such as CAE. The results of the discussion on day 1 will be presented, and OTM members and external partners will engage in a conversation with EU representatives and officials about the main areas of problems within visa procedures.
- 11.15-12.15: Wrap-up session for OTM members and external partners only on how to integrate the principles and results of the discussion into our daily practice and in OTM’s *Charter for a sustainable and responsible cultural mobility*. Preliminary ideas will be shared on the ways to formulate the discussed issues into policy recommendations at the EU level.

List of participants

OTM members and team

	Name	Organisation	Country
1	Anais Lukacs	BAAPE/Bureau d'accueil des artistes et professionnels étrangers	France
2	Angie Cotte	Roberto Cimetta Fund	France
3	Maria Tuerlings	TransArtists	The Netherlands
4	Victoria Seidl	Circostrada/Hors lesmurs	France
5	Dearbahl Murphy	FIA/International Federation of Actors	Belgium
6	Anne Papilloud	FIA member	Switzerland
7	Dmitry Ospienko	Theatre Union of the Russian Federation	Russia
8	Thomas Engel	Executive Director ITI	Germany
9	Marie Le Sourd	OTM secretariat	Belgium
10	Elena Di Federico	OTM secretariat	Belgium

External partners/ experts

	Name	Organisation	Country
11	Fabienne Bidou	Zone Franche	France
12	Mark Vennegoor	RESARTIS	The Netherlands
13	Anita Debaere	PEARLE*/ Performing Arts Employers Association League Europe	Belgium
14	Charlotte Morantin	Arts Move Africa	Belgium
15	Lara Bourdin	Arts Move Africa	Belgium
16	Claire Damilano	ECAS/ European Citizen Action Service	Belgium
17	Luca Begamo	CAE/Culture Action Europe	Belgium
18	He Qian	Phd Sciences Po Paris, Cultural policy China	China
19	Elisabeth Dyvik	ICORN	Norway
20	Richard Polacek	Independent expert on social and cultural affairs	
21	Elena Diaconu	Logistical assistant (visas), Marseille Provence 2013	France
22	Alya Sebti	Marrakech Biennale	Morocco
23	Annelies Van den Berghe	Vlaams Theater Institute - VTI	Belgium

Institutions

	Name	Organisation	Country
24	Catherine Magnant	European Commission/DG Education and Culture	EU
25	Alexandra Kalogirou	European Commission/DG Education and Culture	EU
26	Anne-Marie Soerensen	European Commission/DG Home	EU
27	Daniel Csorgo	European Commission/DG Home	EU
28	Fabienne Brütt	Ministry of Culture and Communication	France

Observer (Friday 16th)

29	Chulamanee Chartsuwan	Minister, Thai embassy	Thailand
----	-----------------------	------------------------	----------